

REMARKS

Reconsideration of the above-identified application in view of the foregoing amendments and following remarks is respectfully requested.

A. **Status of the Claims and Explanation of Amendments**

Claims 1-17 are pending, among which claims 1-6, 8-13 and 15-17 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,767,020 to Kikuchi ("Kikuchi"), and claims 7 and 14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kikuchi.

By this paper, claims 6 and 13 are cancelled without prejudice or disclaimer. Moreover, claim 1 is amended to recite "a control unit that adjusts the focus according to the focus evaluating value based on said image signal read from said image sensor in reading manners which are changed according to the determination of said display designating unit as to whether or not said image display device is in an image display ON state". Support for the amendment can be found throughout the application including, for example, Fig. 4 with the associated text, wherein the image sensing driving mode is switched depending on the image display state. The application further describes two different image sensing driving modes, called normal reading out mode and partial reading out mode, under both of which specific signals are read from image sensing device to calculate the focus evaluating value. (Specification, p. 23 line 10 to p. 25, line 6). Claims 8 and 15 are amended similarly.

Furthermore, claim 17 is amended to recite a calculation unit "wherein said calculation unit calculates the focus evaluating value based on a portion of the image signal when said display is in an image display OFF state". Support for the amendment can also be found throughout the application, including but not limited to Fig. 4 and the associated text.

Therefore, no new matter will be added by the entry of the paper. The Entry is respectfully requested.

B. Claims 1-5, 7-12, and 14-17 are Patentably Distinct from Kikuchi.

The rejections of claims 1-17 are respectfully traversed. As explained more fully below, the requirements for such rejections are not met. In particular, Kikuchi fails to teach or disclose “[changing] reading manners of an image signal according to image display states” in an auto focus adjustment, which is recited in amended claim 1.

Applicant’s claim 1, as amended, recites:

1. An image sensing apparatus, comprising:
an image sensor that outputs an image signal of a subject;
an image display device that displays an image based on said image signal obtained by said image sensor;
a display designating unit that determines whether or not by said image display device is in an image display ON state;
a focus evaluating value obtaining device that obtains a focus evaluating value for adjusting a focus based on said image signal obtained by said image sensor; and
a control unit that adjusts the focus according to the focus evaluating value based on said image signal read from said image sensor in reading manners which are changed according to the determination of said display designating unit as to whether or not said image display device is in an image display ON state.

Kikuchi is directed to a video camera capable of detecting and setting the on/off state of a display with manual and automatic functions. Kikuchi teaches, *inter alia*, setting a focus adjustment mode to an automatic focus adjustment mode when a video monitor 44 is in the OFF state and providing additional manual focus adjustment mode when the video monitor 44 is in the ON state. (Kikuchi, Fig. 2). According to the Office Action, there is “change of reading manners of image signal from said image sensor for obtaining the focus evaluating value” based upon automatic focus control or manual focus control, and there is a showing in Kikuchi that the

change between automatic focus control and manual focus control is based upon determining whether or not the image display device is turned ON or OFF. (06/16/2006 Office Action, p.4).

Applicant believes the Examiner interprets the current claims broadly in the outstanding Office Action. Particularly, the current application is directed to reading manners of image signals for obtaining a focus evaluation value in automatic focus adjustment mode only. To further clarify the application, claim 1 is amended to recite to comprise “a control unit that adjusts the focus according to the focus evaluating value based on said image signal read from said image sensor in reading manners which are changed according to the determination of said display designating unit as to whether or not said image display device is in an image display ON state”. In other words, regardless of different reading manners depending on the state of the image display device, the control unit is fully responsible for adjusting the focus, thus making it clear that manual focus adjustment is not within the claim scope which requires no control unit to adjust the focus.

Applicant's assertion that manual focus requires no signals from automatic focus adjustment unit can further be evidenced by Kikuchi itself. Kikuchi specifically describes that “[i]n manual focus adjusting mode, the focus motor 32 which moves forward and backward the focus lens 12a of the lens group 12 in the optical axis direction is directly driven by operating the manual focus adjusting switch 68 without using a control signal from the automatic focus adjusting circuit 30, thereby performing the manual focus adjustment.” (Kikuchi, col. 6, lines 7-15). In order to distinguish manual focus adjustment from automatic focus adjustment, Kikuchi further states that “[i]f automatic is selected [for automatic focus adjustment], the focus motor 32 is driven by using the control signal from the automatic focus adjusting circuit 30” (Kikuchi, col. 6, lines 15-19). It's clear that the manual focus adjustment is not driven by automatic focus

adjustment circuit 30, therefore the focus evaluation value is not calculated or “adjusted” by the control unit as recited in claim 1. Accordingly, the manual focus adjustment mode is not a reading manner fallen within the scope of the amended claim 1.

Therefore, since Kikuchi fails to teach, disclose, or suggest to change reading manner of an image signal according to image display device in an automatic focus adjustment mode, in which a control unit is required to adjust the focus according to the calculated focus evaluating value, as recited in amended claim 1, Applicant asserts claim 1 is patentably distinct from Kikuchi and in condition for allowance. For at least similar reasons, claims 8 and 15 are asserted in condition for allowance.

Amended claim 17 is also patentably distinct from Kikuchi, because Kikuchi fails to teach, disclose or suggest calculating the focus evaluating value based on a portion of the image signals. Claim 17, as amended, recites “a calculation unit configured to calculate a focus evaluating value for focus adjustment based on said image signal, wherein said calculation unit calculates the focus evaluating value based on a portion of the image signal when said display is in an image display OFF state”. Kikuchi teaches setting a focus adjustment mode to the auto focus mode when the video monitor 44 is in the OFF state and performing “hill-climbing control” in the auto focus mode. However, Kikuchi is completely silent in teaching or suggesting to calculate a focus evaluating value based on a portion of image signals read from image sensing device. Therefore, claim 17 is respectfully asserted patentably distinct from Kikuchi and in condition for allowance for the above reasons.

Applicant has chosen in the interest of expediting prosecution of this patent application to distinguish the cited documents from the pending claims as set forth above. These statements should not be regarded in any way as admissions that the cited documents are, in fact,

prior art. Likewise, Applicant has chosen not to swear behind Kikuchi cited by the office action at this time. Applicant, however, reserves the right, as provided for under 37 C.F.R. 1.131, to do so in the future as appropriate.

Finally, Applicant has not specifically addressed the rejections of the dependent claims 2-5, 7, 9-12, 14 and 16. Applicant respectfully submits that the independent claims 1, 8 and 15, from which they depend, are in condition for allowance as set forth above. Accordingly, the dependent claims also are in condition for allowance. Applicant, however, reserves the right to address such rejections of the dependent claims in the future as appropriate.

CONCLUSION

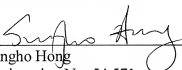
For the above-stated reasons, this application is respectfully asserted to be in condition for allowance. An early and favorable examination on the merits is requested. In the event that a telephone conference would facilitate the examination of this application in any way, the Examiner is invited to contact the undersigned at the number provided.

THE COMMISSIONER IS HEREBY AUTHORIZED TO CHARGE ANY ADDITIONAL FEES WHICH MAY BE REQUIRED FOR THE TIMELY CONSIDERATION OF THIS AMENDMENT UNDER 37 C.F.R. §§ 1.16 AND 1.17, OR CREDIT ANY OVERPAYMENT TO DEPOSIT ACCOUNT NO. 13-4500, ORDER NO. 1232-4714.

Respectfully submitted,
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By: _____


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